THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 14803 of 2006

Dated: 20.07.2006

Between:

P. Swamy, S/o Sathaiah, Driver (E.113257), APSRTC, Dilsukhnagar Bus Depot, Hyderabad, A.P.

..... PETITIONER

AND

The Regional Manager, A.P.S.R.T.C., Hyderabad City Region, JBS, Picket, Secunderabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 14803 of 2006

Order:

This writ petition is filed seeking a Mandamus declaring the action of the respondents in imposing the punishment of reduction of the petitioner's Basic Pay by two incremental stages for a period of two years, which shall have the effect on his future increments, as illegal and arbitrary.

The petitioner, who is working as Driver in the respondents-Corporation, was charge sheeted on 07.10.2003 alleging that on 06.08.2003 he drove the bus in a rash and negligent manner and caused fatal accident to a male pedestrian. After conducting a regular enquiry and considering the explanation submitted by the petitioner, the Depot Manager-respondent No.2, vide proceedings dated 15.03.2004, imposed the punishment of reduction of the petitioner's Basic Pay by two incremental stages for a period of two years, which shall have the effect on his future increments. Aggrieved by the said orders, the petitioner preferred an appeal before the Divisional Manager, Hyderabad Division, which was rejected by order, dated 09.10.2004, directing him to file a review petition before the Regional Manager. Accordingly, he filed a review petition before the Regional Manager, which was also rejected by order dated 05.11.2005. Hence, he filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondents-Corporation.

The learned counsel for the petitioner submitted that the petitioner is not responsible for the alleged accident and that the Enquiry Officer as well as the review authority, without properly appreciating the evidence

of eye-witnesses, came to the conclusion that the charges were proved against the petitioner. He further submits that against the same charges, the Criminal Court, vide orders passed in C.C. No. 5 of 2005, acquitted the petitioner on the ground that the charges leveled against him are not proved, and therefore, the impugned order passed by the 2nd respondent-Depot Manager, which was confirmed by the 1st respondent-Regional Manager, is liable to be set aside.

Learned Standing Counsel for the respondents-Corporation submits that there is no infirmity or illegality in the impugned order warranting interference of this Court. Hence, he prays to dismiss the writ petition.

The petitioner did not allege any procedural irregularity in the conduct of the enquiry. In the departmental enquiry, the Enquiry Officer, on consideration of the entire material and evidence of the eye witnesses on record, held that the charges leveled against the petitioner are proved. The disciplinary authority, considering the nature of the proved charges, imposed punishment of deferment of annual increment for a period of two years with cumulative effect, which was confirmed by the review authority. The contention of the petitioner is that as against the same charges, the Criminal Court, vide orders passed in C.C. No.5 of 2005, acquitted the petitioner on the ground that the charges leveled against him are not proved, the impugned order passed by the 2nd respondent, which was confirmed by the 1st respondent has to be set aside. I am unable to accept the said contention for the reason that mere acquittal of the petitioner by the Criminal Court does not automatically give him the right to claim setting aside the punishment awarded by the disciplinary authority. Before the Enquiry Officer the evidence led by the management was different from that led by the prosecution in the criminal case and the approach and the objectives of the criminal proceedings and the disciplinary proceedings are altogether distinct and different. Therefore, it was open to the Disciplinary Authority

to have come to an independent conclusion dehors the finding of the Criminal Court.

The order passed by the Disciplinary authority, which was confirmed by the review authority, is a discretionary one and such an order cannot be interfered with by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, and more so when the petitioner failed to point out any illegality, infirmity or perversity committed by the Disciplinary Authority in passing the impugned order.

For the reasons, there is no merit in the writ petition and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 20.07.2006
Nsr/Ksr